State of Hawai'i DEPARTMENT OF LAND AND NATURAL RESOURCES Division of Aquatic Resources Honolulu, Hawai'i 96813

March 10, 2011

Board of Land and Natural Resources Honolulu, Hawai'i

Amend Prior Board Action of October 28, 2010, Item F-3: Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Anita Lopez, National Oceanic and Atmospheric Administration (NOAA) Ship OSCAR ELTON SETTE, for Access to State Waters to Conduct Shipboard Support Activities; Due to Personnel Change

The Division of Aquatic Resources (DAR), on behalf of Applicant NOAA, U.S. Department of Commerce, for the NOAA Ship OSCAR ELTON SETTE hereby submits its request to amend the Board's prior authorization and approval for issuance of a Papahānaumokuākea Marine National Monument conservation and management permit to Anita Lopez, C.O., NOAA Ship OSCAR ELTON SETTE, to be issued pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

AMENDMENT REQUEST

The amendment request seeks the Board's authorization and approval for issuance of a Papahānaumokuākea Marine National Monument conservation and management permit to LCDR Frank Dreflak, NOAA Ship OSCAR ELTON SETTE.

At the time of the original application, CDR Lopez was the Commanding Officer of NOAA Ship OSCAR ELTON SETTE and was listed as the applicant for a renewal permit for the ship's 2011 activities. As such, CDR Lopez was listed by name in the title of the submittal approved by the Board of Land and Natural Resources on October 28, 2010. Since that time, DAR staff learned that LCDR Dreflak would be replacing CDR Lopez as the Commanding Officer of NOAA Ship OSCAR ELTON SETTE in February 2011, prior to any voyages into the Monument. As such, the Papahānaumokuākea Marine National Monument conservation and management permit for access to State waters to conduct shipboard support activities should be issued to LCDR Dreflak.

All other aspects of the submittal seeking authorization and approval for this permit remain the same as that which was approved by the Board of Land and Natural Resources on October 28, 2010 (see F-1a, original submittal). Only the applicant's name has changed (See F-1b, revised application for NOAA Ship OSCAR ELTON SETTE).

STAFF OPINION:

DAR staff is of the opinion that the amendment request should be approved.

MMB OPINION:

The MMB is of the opinion that the amendment request should be approved.

RECOMMENDATION:

That the Board authorize and approve this amendment request for issuance of a Papahānaumokuākea Marine National Monument conservation and management permit to LCDR Frank Dreflak, NOAA Ship OSCAR ELTON SETTE.

Respectfully submitted,

Administrator

Division of Aquatic Resources

APPROVED FOR SUBMITTAL

WILLIAM J. AILA, JR. Interim Chairperson

State of Hawaii DEPARTMENT OF LAND AND NATURAL RESOURCES Division of Aquatic Resources Honolulu, Hawaii 96813

October 28, 2010

Board of Land and Natural Resources Honolulu, Hawaii

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Anita Lopez, National Oceanic and Atmospheric Administration (NOAA) Ship OSCAR ELTON SETTE, for Access to State Waters to Conduct Shipboard Support Activities.

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument conservation and management permit to Anita Lopez, C.O., NOAA Ship OSCAR ELTON SETTE, pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

The conservation and management permit, as described below, would allow entry and management activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the NWHI State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- Nihoa Island
- Necker Island (Mokumanamana)
- French Frigate Shoals
- Laysan Island
- Maro Reef
- Gardner Pinnacles
- Lisianski Island, Neva Shoal
- Pearl and Hermes Atoll
- Kure Atoll

The activities covered under this permit would occur between January 1, 2011 and November 30, 2011.

The proposed activities are a renewal of work previously permitted and conducted in the Monument.

INTENDED ACTIVITIES

The applicant proposes to provide an at-sea research platform to support research, education, and management activities within the Monument. Researchers, educators, and managers aboard NOAA Ship OSCAR ELTON SETTE would work under separate permits than the ship.

The ship would transit to the Monument from Pearl Harbor, operate within the Monument conducting various operations, including small boat operations, SCUBA diving, snorkeling, marine debris retrieval and removal, oceanographic data collection, and supporting authorized US Fish and Wildlife Service and State of Hawaii marine and land-based operations. Monument personnel would typically be on board and in charge of all scientific operations.

All methods and procedures would be performed with the safety and welfare of personnel, the protection of Monument resources, and the accomplishment of mission objectives as top priorities. NOAA Ship OSCAR ELTON SETTE would have all required inspections (hull fouling, gear, tender vessel, ballast water, and rat) completed before departure to the Monument. NOAA Ship OSCAR ELTON SETTE also has a type-approved Vessel Monitoring System (VMS) on board, which meets Monument requirements, and would abide by Monument entry and exit notification requirements.

The support provided by NOAA Ship OSCAR ELTON SETTE would not diminish Monument resources, qualities, or ecological integrity and is fully compatible with the purposes of the Proclamation including preserving and furthering understanding of Monument resources and qualities. Research is a critical element of management within the Monument and NOAA Ship OSCAR ELTON SETTE plays an integral role in assuring that research and conservation and management activities are properly supported in the field.

The activities proposed by the applicant directly support the Monument Management Plan's priority management need 3.6 – Achieving Effective Monument Operations through action plan 3.6.3 - Coordinated Field Operations. As NOAA Ship OSCAR ELTON SETTE would serve as a platform for a variety of other permitted activities, this permit would also support priority management needs 3.1 – Understanding and Interpreting the NWHI; 3.2 – Conserving Wildlife and Habitats; and 3.3 – Reducing Threats to Monument Resources.

The activities described above may require the following regulated activities to occur in State waters:

		oring	a	vessel
_	_	_		

Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or Midway Atoll Special Management Area

•	Commanding Officer Lopez was issued permits PMNM-2009-015 and PMNM-
	2010-006 in 2009 and 2010. In addition, the NOAA Ship OSCAR ELTON
	SETTE, under previous Commanding Officers, has been granted Monument
	and/or DLNR permits for similar activities since 2006. (DLNR.NWHI06SA001;
	DLNR/NWHI/07R001; PMNM-2008-009)

Have there been any	a) violations:b) Late/incomplete post-activity reports:	Yes Yes	No No	\boxtimes
Are there any other re	elevant concerns from previous permits?	Yes	No	\boxtimes

STAFF OPINION

DAR staff is of the opinion that Applicant has properly demonstrated valid justifications for her application and should be allowed to enter the NWHI State waters and to conduct the activities therein as specified in the application with certain special instructions and conditions, which are in addition to the Papahānaumokuākea Marine National Monument Conservation and Management Permit General Conditions. All suggested special conditions have been vetted through the legal counsel of the Co-Trustee agencies (see Recommendation section).

MONUMENT MANAGEMENT BOARD OPINION

The MMB is of the opinion that the Applicant has met the findings of Presidential Proclamation 8031 and this activity may be conducted subject to completion of all compliance requirements. The MMB concurs with the special conditions recommended by DAR staff.

RECOMMENDATION

That the Board authorize and approve a Conservation and Management Permit to Commanding Officer Anita Lopez, NOAA Ship OSCAR ELTON SETTE, with the following special conditions:

- 1. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocol attached to this permit.
- 2. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
- 3. Refueling of tenders and all small vessels must be done at the support ships and outside the confines of lagoons or near-shore waters in the State Marine Refuge.

REVIEW PROCESS

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawaii Division of Aquatic Resources, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Pacific Islands NW Refuge Complex Office, and the Office of Hawaiian Affairs (OHA). In addition, the permit application has been posted on the Monument Web site since September 20th, giving the public an opportunity to comment. The application was posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

Comments received from the scientific community are summarized as follows:

Scientific reviews support the acceptance of this application. No concerns were raised.

Comments received from the Native Hawaiian community are summarized as follows:

Cultural reviews support the acceptance of this application. No concerns were raised.

Comments received from the public are summarized as follows:

No comments were received from the public on this application.

Additional reviews and permit history:

Are there other relevant/necessary permits or environmental	rev	views t	hat hav	e or w	ill be
issued with regard to this project? (e.g. MMPA, ESA, EA)		Yes	\boxtimes	No	
If so, please list or explain:					

- The proposed activities are in compliance with the National Environmental Policy Act.
- Research scientists working aboard NOAA Ship OSCAR ELTON SETTE will
 apply for and be issued separate permits pertaining to their individual activities.
- The Department has made an exemption determination for this permit in accordance chapter 343, HRS, and Chapter 11-200, HAR. See Attachment ("Declaration of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS and Chapter 11-200 HAR, for Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Anita Lopez, National Oceanic and Atmospheric Administration (NOAA) Ship OSCAR ELTON SETTE, for Access to State Waters to Conduct Shipboard Support Activities under Permit PMNM-2011-008").

Has Applicant been granted a permit from the State in the past? Yes	\boxtimes	No	
If so, please summarize past permits:			

4. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.

Respectfully submitted,

Administrator

APPROVED FOR SUBMITTAL

LAURA H. THIELEN Chairperson

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Papahānaumokuākea Marine National Monument CONSERVATION AND MANAGEMENT Permit Application

NOTE: This Permit Application (and associated Instructions) are to propose activities to be conducted in the Papahānaumokuākea Marine National Monument. The Co-Trustees are required to determine that issuing the requested permit is compatible with the findings of Presidential Proclamation 8031. Within this Application, provide all information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Papahānaumokuākea Marine National Monument (Monument).

ADDITIONAL IMPORTANT INFORMATION:

- Any or all of the information within this application may be posted to the Monument website informing the public on projects proposed to occur in the Monument.
- In addition to the permit application, the Applicant must either download the Monument Compliance Information Sheet from the Monument website OR request a hard copy from the Monument Permit Coordinator (contact information below). The Monument Compliance Information Sheet must be submitted to the Monument Permit Coordinator after initial application consultation.
- Issuance of a Monument permit is dependent upon the completion and review of the application and Compliance Information Sheet.

INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED

Send Permit Applications to:
Papahānaumokuākea Marine National Monument Permit Coordinator
6600 Kalaniana'ole Hwy. # 300
Honolulu, HI 96825
nwhipermit@noaa.gov
PHONE: (808) 397-2660 FAX: (808) 397-2662

SUBMITTAL VIA ELECTRONIC MAIL IS PREFERRED BUT NOT REQUIRED. FOR ADDITIONAL SUBMITTAL INSTRUCTIONS, SEE THE LAST PAGE.



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Papahānaumokuākea Marine National Monument Permit Application Cover Sheet

This Permit Application Cover Sheet is intended to provide summary information and status to the public on permit applications for activities proposed to be conducted in the Papahānaumokuākea Marine National Monument. While a permit application has been received, it has not been fully reviewed nor approved by the Monument Management Board to date. The Monument permit process also ensures that all environmental reviews are conducted prior to the issuance of a Monument permit.

Summary Information

Applicant Name: LCDR Frank K. Dreflak, NOAA - Executive Officer, NOAA Ship Oscar

Elton Sette

Affiliation: National Oceanic and Atmospheric Administration

Permit Category: Conservation and Management

Proposed Activity Dates: 1/1/11 - 11/1/11

Proposed Method of Entry (Vessel/Plane): Vessel

Proposed Locations: Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Neva Shoal, Pearl and Hermes Atoll, Midway Atoll,

Kure Atoll

Estimated number of individuals (including Applicant) to be covered under this permit: 24 Estimated number of days in the Monument: 124 (FY11 schedule still pending)

Description of proposed activities: (complete these sentences):

- a.) The proposed activity would... operate the Oscar Elton Sette, a 224' National Oceanic and Atmospheric Administration (NOAA) research vessel within the boundaries of Papahānaumokuākea Marine National Monument. The operations of this vessel is to provide an at sea research platform support for NOAA research activities. Research scientists aboard the vessel will work under separate permits than the ship.
- b.) To accomplish this activity we would transport and support research scientists traveling within the Monument.
- c.) This activity would help the Monument by ... providing a data collection platform for scientists to conduct research and conservation management activities in order to preserve and sustain the scientific and cultural significance of Papahānaumokuākea.

Other information or background:

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Section A - Applicant Information

1. Applicant

Name (last, first, middle initial): Dreflak, Frank K.

Title: Executive Officer, NOAA Ship Oscar Elton Sette

1a. Intended field Principal Investigator (See instructions for more information): N/A

2. Mailing address (street/P.O. box, city, state, country, zip): NOAA Ship Oscar Elton Sette, 1897 Ranger Loop, Honolulu, HI 96818

Phone: 808-306-3438, 808-306-3513

Fax: 808-455-6895

Email: co.sette@noaa.gov, Kurt.Dreflak@noaa.gov

For students, major professor's name, telephone and email address: N/A

- 3. Affiliation (institution/agency/organization directly related to the proposed project): U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Marine and Aviation Operations
- 4. Additional persons to be covered by permit. List all personnel roles and names (if known at time of application) here (e.g. John Doe, Research Diver; Jane Doe, Field Technician):

Officers and crew of NOAA Ship Oscar Elton Sette (see attachment #1)

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Section B: Project Information

5a. Project location(s):		Ocean Based	
Nihoa Island	Land-based	Shallow water	Deep water
Necker Island (Mokumanamana)	☐ Land-based	Shallow water	Deep water
☐ French Frigate Shoals	☐ Land-based	Shallow water	Deep water
☐ Gardner Pinnacles	☐ Land-based	Shallow water	Deep water
Maro Reef			
□ Laysan Island	☐ Land-based	Shallow water	Deep water
Lisianski Island, Neva Shoal	Land-based	Shallow water	Deep water
Pearl and Hermes Atoll	Land-based	Shallow water	Deep water
Midway Atoll	Land-based	Shallow water	Deep water
Kure Atoll	Land-based	Shallow water	Deep water
Other			Z z z z z z z z z z z z z z z z z z z z
NOTE: There is a fee schedule for pe	ople visiting Midwav	Atoll National Wildlife	e Refuge via
vessel and aircraft.			
Location Description:			
General operations throughout Papah	ānaumokuākea Marine	e National Monument	
	41.141		
5b. Check all applicable regulated a			
Removing, moving, taking, harves		ring, disturbing, or dan	naging any
living or nonliving Monument resource		11 1 4 4 1	1
Drilling into, dredging, or otherwi			
vessel; or constructing, placing, or ab	andoning any structure	e, material, or other ma	itter on the
submerged lands			
Anchoring a vessel	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
Deserting a vessel aground, at anc	nor, or adrift		
Discharging or depositing any ma	terial or matter into th	e Monument	
Touching coral, living or dead	. 1 1	11.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1	
Possessing fishing gear except wh	en stowed and not ava	illable for immediate u	se during
passage without interruption through			
Attracting any living Monument re			
Sustenance fishing (Federal waters		cial Preservation Areas	, Ecological
Reserves and Special Management An			
Subsistence fishing (State waters of		A dining midding C	
Swimming, snorkeling, or closed of			eciai
Preservation Area or Midway Atoll Sp	peciai ivianagement A	rea	

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6 Purpose/Need/Scope State purpose of proposed activities:

The purpose of the ship's activities are to provide an at sea research platform to support small boat, diver, and educational activities in support of approved Monument permit activities including but not limited to protected species research.

7. Answer the Findings below by providing information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Monument:

The Findings are as follows:

a. How can the activity be conducted with adequate safeguards for the cultural, natural and historic resources and ecological integrity of the Monument?

NOAA Ship Oscar Elton Sette is dedicated to studying and protecting Papahānaumokuākea Marine National Monument, and to carry out NOAA's mission of understanding the Earth's environment and managing marine resources to meet our nation's economic, social, and environmental needs. Activities conducted aboard the ship will be respectful of the natural, historical and cultural resources of the Monument.

b. How will the activity be conducted in a manner compatible with the management direction of this proclamation, considering the extent to which the conduct of the activity may diminish or enhance Monument cultural, natural and historic resources, qualities, and ecological integrity, any indirect, secondary, or cumulative effects of the activity, and the duration of such effects?

All operations conducted on the NOAA Ship Oscar Elton Sette will be activities permitted by the co-trustees of the Monument. All operations will be compatible with the conservation and management goals of the Monument, NOAA, USFWS, and the State of Hawaii.

c. Is there a practicable alternative to conducting the activity within the Monument? If not, explain why your activities must be conducted in the Monument.

The vessel is an at sea research platform to transport scientists and scientific gear to locations throughout the Monument. Without this safe mode of transportation, research and conservation and management activities would be significantly limited or would not occur at all. The ship's mission also supports and fosters critical partnerships between multiple government agencies, both state and federal. Without NOAA's support, USFWS and the Hawaii DLNR would have to locate other sources of logistical support for their research camps.

d. How does the end value of the activity outweigh its adverse impacts on Monument cultural, natural and historic resources, qualities, and ecological integrity?

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The NOAA Ship Oscar Elton Sette supports scientific research that helps assess and characterize the fauna of the NWHI. Some of these species are critically endangered and the NOAA Ship Oscar Elton Sette is essential in the effort to attempt to restore populations of these animals.

e. Explain how the duration of the activity is no longer than necessary to achieve its stated purpose.

Federal funding for protected resources within the Agency is limited. The allocation of project time has been minimized to sustain critical operations only. For example, work within the Monument to support Monk Seal Research is one of the Agency's top priorities and is only supported at a level to sustain minimum operations which includes transit time between the islands, personnel transfers, and equipment movements.

f. Provide information demonstrating that you are qualified to conduct and complete the activity and mitigate any potential impacts resulting from its conduct.

The officers and crew of the Oscar Elton Sette have operated in accordance with a conservation & management permit in Papahānaumokuākea Marine National Monument since early 2007. This permit is a renewal application.

g. Provide information demonstrating that you have adequate financial resources available to conduct and complete the activity and mitigate any potential impacts resulting from its conduct.

The federal government is self insured.

h. Explain how your methods and procedures are appropriate to achieve the proposed activity's goals in relation to their impacts to Monument cultural, natural and historic resources, qualities, and ecological integrity.

Annually the ship invites a member of the Monument staff to brief the crew on the historical and cultural significance of the Monument. Additional literature and briefing materials are available on the ship throughout the year. Each crewmember is required to read and sign the permit abiding by the conditions set forth within the document. The crew honors and respects the cultural, spiritual, and historical significance of Papahānaumokuākea.

i. Has your vessel has been outfitted with a mobile transceiver unit approved by OLE and complies with the requirements of Presidential Proclamation 8031?

Yes, the ship is equiped with a Sailor TT 3606 XP, Thrane and Thrane.

VMS Email: 436900545@c.xantic.net

Inmarsat ID#: 436900545

j. Demonstrate that there are no other factors that would make the issuance of a permit for the activity inappropriate.

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All methods and procedures will be performed with the safety and welfare of personnel, the protection of Monument's natural and cultrual resources, and the accomplishment of mission objectives as top priorities.

Ship's personnel will abide by the NOAA documents: "Marine Wildlife Viewing Guidelines", the "Disease and Introduction Species Prevention Protocol for Permitted Activitives in the Marine Environment Papahānaumokuākea Marine National Monument". All crewmembers aboard the vessel are required to read and sign the Papahānaumokuakea Marine National Monument Conservation & Management permit and abide by by all permit conditions.

8. Procedures/Methods:

The ship will transit to the monument from Pearl Harbor, operate within the monument with various research operations, including small boat operations, diving, oceanographic data collection, and supporting authorized USF&WS and State of Hawaii land based operations.

Crew activities will include small boat operations, SCUBA, snorkeling, and swimming as necessary for vessel maintenance, emergency operations, proficiency, or support of vessel and research activities. The primary operations will be small boat operations during day light hours for purposes of transporting scientists to and from islands within the Monument, conducting operations in support of marine debris removal, and other research activities.

NOTE: If land or marine archeological activities are involved, contact the Monument Permit Coordinator at the address on the general application form before proceeding, as a customized application will be needed. For more information, contact the Monument office on the first page of this application.

9a. Collection of specimens - collecting activities (would apply to any activity): organisms or objects (List of species, if applicable, attach additional sheets if necessary):

Common name:						
Scientific name:						
# & size of specimens:						
Collection location:						
☐ Whole Organism ☐ Partial Organism						
9b. What will be done with the specimens after	r the p	roject	has e	nded?		

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9c. Will the organisms be kept alive after collection? Yes No
• General site/location for collections: N/A
• Is it an open or closed system? Open Closed N/A
• Is there an outfall? Yes No N/A
• Will these organisms be housed with other organisms? If so, what are the other organisms? N/A
• Will organisms be released? N/A
10. If applicable, how will the collected samples or specimens be transported out of the Monument? N/A
11. Describe collaborative activities to share samples, reduce duplicative sampling, or duplicative research: N/A
12. List all specialized gear and materials to be used in this activity: NOAA Ship Oscar Elton Sette carries three small boats at all times, these are: 18' Fast Rescue Boat-AMBAR Marine with twin 60 hp Mercury Mariner outboard engines. 16' Achilles - inflatable boat with a single 50 hp Yamaha outboard engine A third will be purchased in FY11. Particulars will be provided to PMNM personnel when available. SCUBA gear Sustenance fishing will be with hand lines from the vessel, and only within the Midway SMA as per Monument Management Board Policy.
13. List all Hazardous Materials you propose to take to and use within the Monument: The ship carries Hazardous Materials for use only aboard the vessel. See attached list #2
14. Describe any fixed installations and instrumentation proposed to be set in the Monument: N/A

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15. Provide a time line for sample analysis, data analysis, write-up and publication of information:

N/A

16. List all Applicants' publications directly related to the proposed project:

N/A

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With knowledge of the penalties for false or incomplete statements, as provided by 18 U.S.C. 1001, and for perjury, as provided by 18 U.S.C. 1621, I hereby certify to the best of my abilities under penalty of perjury of that the information I have provided on this application form is true and correct. I agree that the Co-Trustees may post this application in its entirety on the Internet. I understand that the Co-Trustees will consider deleting all information that I have identified as "confidential" prior to posting the application.

Signature	Date	

SEND ONE SIGNED APPLICATION VIA MAIL TO THE MONUMENT OFFICE BELOW:

Papahānaumokuākea Marine National Monument Permit Coordinator 6600 Kalaniana'ole Hwy. # 300 Honolulu, HI 96825

FAX: (808) 397-2662

	DID YOU INCLUDE THESE?
	Applicant CV/Resume/Biography
	Intended field Principal Investigator CV/Resume/Biography
	Electronic and Hard Copy of Application with Signature
	Statement of information you wish to be kept confidential
Γ	Material Safety Data Sheets for Hazardous Materials